

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

MARIO H. CAPOGROSSO,

Plaintiff,

- against -

ALAN GELBSTEIN, *in his official and individual capacity*, IDA TRASCHEN, *in her official and individual capacity*, DANIELLE CALVO, *in her official and individual capacity*, SADIQ TAHIR, *in his individual capacity*, PEC GROUP OF NY, INC., and DAVID SMART,

Defendants.

No. CV 18-2710-MKB-LB

DECLARATION OF MARK SIEGMUND
IN SUPPORT OF MOTION FOR LEAVE TO WITHDRAW AS COUNSEL

I, Mark Siegmund, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am an Assistant Attorney General in the Office of Letitia James, Attorney General of the State of New York. I submit this declaration in support of my motion, pursuant to Rule 1.4 of the Local Civil Rules of the Southern and Eastern Districts of New York, to withdraw as counsel of record for defendants Alan Gelbstein, Ida Traschen, and Danielle Calvo (collectively, the “State Defendants”) in the above-captioned action.

2. The reason for my withdrawal is that I have resigned from my position as an Assistant Attorney General, effective November 21, 2019. James Thompson, another Assistant Attorney General in the Office of Attorney General, has entered an appearance (ECF No. 83) and will continue to represent the State Defendants in this action.

3. I am not asserting a retaining or charging lien in connection with this action.

4. The posture of the case is as follows:

- a. On September 25, 2019, the Court rendered a decision on the State Defendants' motion to dismiss the original complaint, in which it dismissed Plaintiff's claims for procedural due process violation under 42 U.S.C. § 1983 and civil conspiracy under 42 U.S.C. § 1985(e) with prejudice, dismissed all claims against State Defendants Morgan, Vahdat, Flanagan and Palmieri without prejudice, and allowed Plaintiff's claims for First Amendment retaliation under 42 U.S.C. § 1983 and prospective injunctive relief to proceed as against State Defendants Gelbstein, Calvo and Traschen (*see* ECF No. 71);
- b. On October 24, 2019, Plaintiff filed an Amended Complaint (ECF No. 74), which asserted new allegations regarding State Defendants Vahdat (*id.* ¶¶ 48-54) and Morgan (*id.* ¶¶ 60-64), but no new allegations as to State Defendants Flanagan or Palmieri;
- c. On November 7, 2019, the State Defendants filed a pre-motion letter regarding their anticipated motion to dismiss the Amended Complaint as to State Defendants Vahdat, Morgan, Flanagan and Palmieri (*see* ECF No. 77) and a separate pre-motion letter requesting that the stay of discovery be extended until after the motion to dismiss the Amended Complaint is decided (*see* ECF No. 78);
- d. On November 14, 2019, Magistrate Judge Bloom conducted an initial conference, at which the undersigned appeared on behalf of the State Defendants, and Plaintiff and defendant David Smart also appeared;
- e. The Court thereafter issued an Order regarding the initial conference (ECF No. 82); and
- f. At the initial conference, *inter alia*, Plaintiff voluntarily withdrew the Amended

Complaint and Magistrate Judge Bloom set the following deadlines:

- i. The State Defendants have until December 4, 2019 to answer the original complaint;
- ii. Plaintiff and the State Defendants have until December 4, 2019 to serve initial disclosures;
- iii. The parties shall complete all discovery by May 15, 2020; and
- iv. Any party seeking to file a dispositive motion shall file a pre-motion conference request by June 5, 2010 in accordance with Judge Brodie's Individual Motion Practices and Rules.

5. Accordingly, my withdrawal will not cause delay or result in any prejudice given the ongoing representation of the State Defendants by Assistant Attorney General Thompson in this action.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
November 19, 2019

By: /s/ Mark Siegmund
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